IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
**APPEAL (L) NO. 723 OF 2007**
IN
**NOTICE OF MOTION NO. 273 OF 2006**
**IN**
**SUIT NO. 101 OF 1993**

Chhaganlal Hairbhai Kesur ..Appellant
V/s
P. Pushparani & Ors. ..Respondents.

Mr. M.M.Vashi alongwith Mr. Bharat Vaishnawa i/b. Bharat Vaishnawa & Co. for the Appellant.

Mr. T.M. Subramaniam, Sr. Advocate with Mr. B.B. Saraf, Mr. Ranjit Dharmadhikari, Mr. Hemant Shah i/b Krishna Tanna for respondent Nos. 4 and 5.

**CORAM : J.N. PATEL AND**
**A.A. SAYED, J**J.
**DATE : 11TH SEPTEMBER, 2007**

P.C.

1. Heard.

2. The Learned Counsel for the appellant after taking instructions, submits that if the appellant is permitted to withdraw the amount deposited by the respondents 4 & 5 pursuant to the impugned Order passed by the Learned Single Judge, he does not wish to press the Appeal. He further submits that the appellant is willing to furnish a Bank Guarantee covering the said amount pending the Suit.

3. We therefore direct that upon the appellant furnishing Bank Guarantee of a Nationalised bank in a

sum of Rs. 38,68,450/- in favour of the respondents 4 & 5 in the pending suit and giving an undertaking as mentioned hereinbelow, the appellant be permitted to withdraw the said amount deposited by the respondents 4 & 5.

4. The appellant shall give an undertaking to the effect that the bank Guarantee shall be kept alive by him until the disposal of the suit and also to the effect that he will inform the respondents 4 & 5 at least a month in advance of the time to time extensions/ renewals of validity of the Bank Guarantee and he shall not withdraw or discharge the Bank Guarantee except with leave of the Court.

5. In the event the appellant fails in the suit, the respondents 4 & 5 would be entitled to refund of the amounts deposited by them and withdrawn by the appellant with interest and costs as may be decided by the Trial Court.

6. The respondents 4 & 5 shall not enforce the Bank Guarantee until the disposal of the suit and/or without leave of the Court.

7. The parties shall be under obligation to inform the status of the Bank Guarantee to each other in

advance before the withdrawal or discharge or enforcement of the Bank Guarantee.

8. Liberty to apply.

9. The appeal is disposed of. The impugned Order of the learned Single Judge stands modified accordingly.

10. No Order as to costs.

**( J.N.PATEL, J.)**

**( A.A. SAYED, J.)**

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
**APPEAL (L) NO. 724 OF 2007.**
IN
CHAMBER SUMMONS NO. 143 OF 2006
IN
**SUMMARY SUIT NO. 101 OF 1993**

Chhaganlal Hairbhai Kesur ..Appellant.

V/s

P. Pushparani & Another ..Respondents.
[Orig. Defendants.]

AND

Naresh O. Jain and another ..Respondents.
[Orig.Applicants.]

Mr. M.M.Vashi alongwith Mr. Bharat Vaishnawa i/b. Bharat Vaishnawa & Co. for the appellant.

Mr. T.M. Subramaniam, Sr. Advocate with Mr. B.B. Saraf, Mr. Ranjit Dharmadhikari, Mr. Hemant Shah i/b Krishna Tanna for respondent Nos. 4 and 5.

**CORAM : J.N. PATEL AND**
**A.A. SAYED, J**J.
**DATE : 11TH SEPTEMBER, 2007**

P.C.

1. The learned Counsel for the appellant makes a statement that he will add Respondents 4 & 5 (Original Applicants) as party- Defendants in the pending suit as directed by the Trial Court. Statement accepted. Time for carrying out amendment extended for four weeks from today.

2. Nothing therefore survives in the Appeal and the same is disposed of

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**( J.N.PATEL, J.)**

**( A.A. SAYED, J.)**

IN THE HIGH COURT OF JUDICATATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
**APPEAL (L) NO. 725 OF 2007.**
IN
NOTICE OF MOTION NO. 1707 OF 2006
IN
**SUMMARY SUIT NO. 101 OF 1993**

Chhaganlal Hairbhai Kesur ..Appellant.
V/s
P. Pushparani & Another ..Respondents.
[Orig. Defendants.]
AND
Naresh O. Jain and another ..Respondents.
[Orig.respondents.]

Mr. M.M.Vashi alongwith Bharat Vaishnawa i/b. Bharat Vaishnawa & Co. for the appellant.

Mr. T.M. Subramaniam, Sr. Advocate with Mr. B.B. Saraf, Mr. Ranjit Dharmadhikari, Mr. Hemant Shah i/b Krishna Tanna for respondent Nos. 4 and 5.

Mr. Gaikwad for BMC.

**CORAM : J.N. PATEL AND**
**A.A. SAYED, JJ.**
**DATE : 11TH SEPTEMBER, 2007**

P.C.

1. The learned Counsel for the parties fairly submit that in view of the Order of even date in Appeal (L) No. 723 of 2007, nothing survives in the above Appeal. The appeal accordingly stands disposed of.

**( J.N.PATEL, J.)**

( A.A. SAYED, J.)